## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA CHARLESTON DIVISION

FREDERIC Z. HENSLEY and DIANNE R.	)	C/A No. 2:15-cv-02087-ASB
HENSLEY,	)	
	)	
Plaintiffs,	)	
	)	MEMORANDUM IN SUPPORT OF
v.	)	MOTION TO AMEND COMPLAINT
	)	PURSUANT TO RULES 15(a) AND
3M COMPANY, et al.,	) 2	5(a)(1) OF THE FEDERAL RULES OF
	)	<u>CIVIL PROCEDURE</u>
Defendants.	)	
	)	

The above-captioned matter was brought against various defendants on April 17, 2015 by Plaintiff seeking damages for injuries suffered as the result of exposure to asbestos products. Subsequent to the bringing of this action, FREDERIC Z. HENSLEY died on or about April 18, 2015, as a result of these injuries. On or about May 5, 2015, Dianne R. Hensley was duly appointed Personal Representative of the decedent's estate. Pursuant to Federal Rule of Civil Procedure 25(a)(1), "If a party dies and the claim is not thereby extinguished, the Court may order substitution of the proper parties." Pursuant to the South Carolina Wrongful Death Act, \$15-51-10 et seq. of the S.C. Code of Laws, Plaintiff's claim for damages for the wrongful death is not extinguished, and Plaintiff Dianne R. Hensley, as Personal Representative of the Estate of FREDERIC Z. HENSLEY, deceased, is the proper party to bring said action.

This Motion is made pursuant to Rule 15(a) of the Federal Rules of Civil Procedure.

Plaintiff therefore asks this Court to enter an Order allowing Plaintiff to amend his complaint so as to substitute Dianne R. Hensley, Personal Representative of the Estate of FREDERIC Z. HENSLEY, deceased, as Plaintiff, and to add as a separate and distinct cause of

action, Plaintiff's claim for relief for wrongful death pursuant to the South Carolina Wrongful Death Statute, §15-51-10 et seq. of the S.C. Code of Laws.

Plaintiff's counsel certifies that consultation with opposing counsel would serve no useful purpose in this matter. Plaintiff's counsel contends that no prejudice will result to any party by the granting of Plaintiff's motion. Plaintiff further asserts that Plaintiff's motion should be granted in the interest of judicial economy so as to avoid the necessity for duplicative actions.

Respectfully submitted this 3<sup>rd</sup> day of June, 2015,

## MOTLEY RICE LLC

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